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**Testimony of David Sutherland – Director of Government Relations
Before the Public Health Committee – February 24th, 2016**

**In support, with modifications, of Bill 5263
AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S RECOMMENDATIONS
ON DISCLOSURE OF WATER PLAN INFORMATION.**

On behalf of The Nature Conservancy, I would like to express our support, with modifications suggested below, for Bill 5263. We would also like to thank the committee for raising this bill and the Department of Public Health, Department of Energy and Environmental Protection, and the Connecticut Waterworks Association for their work on it.

The bill, with changes that we are recommending, would ensure that information that would not present a threat to the security of our water supply systems and is essential for water planning, is not unduly withheld from the public.

Connecticut is fortunate to have adequate precipitation. Yet, there are increasing concerns about our generally ample water supplies. There are specific regions in the state where development has outpaced or is likely to outpace available water. Recent trends confirm predictions by climate scientists that the Northeast will see increasingly long drought periods interspersed with stronger storm events. And there are streams in Connecticut where excessive water withdrawals result in inadequate flows to support fish and other aquatic life. Well-informed and comprehensive planning, on both the statewide and local level, is crucial to ensure that our residents, our businesses and institutions, and our aquatic wildlife, in all parts of the state, have sufficient water.

The General Assembly took an important step for Connecticut's future in 2014 with the passage of P.A. 14-163, which mandated the Water Planning Council to prepare a comprehensive water plan for the state. Yet, completing such a plan in any meaningful way will be extremely difficult if the Water Planning Steering Committee and its members, representing various water-resource stakeholders, cannot have access to crucial information regarding water supply. This information is also essential for assessing many local water issues. Critical parts of that information, however, are not available to many Steering Committee members or the public because they are exempt from our Freedom of Information laws.

These exemptions were passed in 2002 and 2003 in response to the 2001 terrorist attacks. The security of our water supplies is clearly of utmost concern to all citizens. As with many vulnerabilities, the precautions we take to protect ourselves must be balanced with other critical factors, such as privacy, expense, degree and nature of threat, and citizens' freedoms and rights to be aware of various government initiatives.

Unfortunately, threats to our water supply systems can come in many ways to many different components of those systems. Fortunately, there are challenges that any terrorist

or vandal would face when trying to inflict widespread damage through most of those components.

As just one example, a 2011 article in Homeland Security News Wire discusses a vulnerability that water industry magazines have noted exists in scores of locations in any densely developed area, and yet which has been addressed to a great extent:

“DHS officials fear that terrorists could cheaply and easily launch a malicious attack using backpressure, but experts say that while backpressure attacks are a potential threat, existing safety measures should be enough to thwart a potential attack.

“It’s possible. Virtually any kid taking a high school science class could figure it out, but it would have to be done in such volumes that it would be relatively hard to do because of the fact that we use backflow prevention assemblies in major areas and almost all of your industrial areas,” Dillard said.

Dillard added that all fifty states have required the use of controlled cross-connections and backflow prevention systems, while thirty-two states have active backflow prevention programs.”

Vandals, disgruntled employees, or terrorists have countless locations and facilities through which to attack our water systems. Due to the sheer number of vulnerabilities, many of which are already obvious to anyone with bad intent; some of the information about our water systems, which is currently routinely withheld under Connecticut’s FOIA exemptions, would not likely add significantly to a miscreant’s knowledge of where to attack a system.

Some of the information is available on a very piecemeal basis if one combs through municipal commission records; so in many cases, someone bent on damaging a specific system could find information on that system. Yet, a municipal official or citizen attempting to do water planning on a statewide or regional level would face an arduous task to compile this crucial planning information, if they are unable to get it through relevant state agencies.

Some information regarding our water systems must absolutely continue to be closely protected. In order to more appropriately balance the important factors regarding the availability of other information, our statutes must allow for a more nuanced look at our needs for critical planning information, as well as security. We look forward to working with our agencies, the General Assembly, and the water industry to strike the correct balance.

RECOMMENDED CHANGES IN RED TO BILL 5263:

(ix) With respect to a water company, as defined in section 25-32a, that provides water service: Vulnerability assessments and risk management plans, [operational plans, portions of water supply plans submitted pursuant to section 25-32d that contain or reveal information the disclosure of which may result in a security risk to a water company, inspection reports, technical specifications and other materials that depict or specifically describe critical water company operating facilities, collection and distribution systems or sources of supply] documents or portions of documents that identify or describe procedures for sabotage prevention and response, and any plans, reports, technical specifications and other materials [including materials that contain the location of transmission mains and tunnels, source water intakes and treatment] that include information that, if disclosed [may] **WOULD LIKELY** result in a security risk to a water company, provided nothing in subparagraph (A)(ix) of this subdivision shall prohibit the disclosure of water quality reports, information concerning a water company's margin of safety and information concerning the amount of available water

and safe daily yield [that disclose only the municipality in which the source or sources of supply are located] THAT WOULD BE ESSENTIAL FOR PLANNING AND MANAGING WATER RESOURCES FOR THE ECONOMIC AND ENVIRONMENTAL BENEFIT OF AFFECTED COMMUNITIES;